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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,431	04/30/2001	David A. Birks	CABL.03US01	2531

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EXAMINER
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USTARIS, JOSEPH G

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/845,431

Applicant(s)

BIRKS ET AL.

Examiner

Joseph G. Ustaris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 10-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 5 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Restriction Election***

1. This action is in response to the restriction election dated 19 September 2005 in application 09/845,431. Claims 1-24 are pending. Applicants elect Group 1, claims 1-9, without traverse. Claims 10-24 are withdrawn from consideration.

### ***Claim Objections***

2. Claim 5 is objected to under 37 CFR 1.75.

Claim 5 recites the limitation "said audio stream" on page 13. There is insufficient antecedent basis for this limitation in the claim. The examiner suggests replacing "said audio stream" with --said audio/video stream--.

Claim 7 is objected to because of the following informalities:

- Claim 7 recites "said step of combing" on page 13.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Rangan et al. (US006493872B1).

Regarding claim 1, Rangan et al. (Rangan) discloses a "method for synchronizing a data transfer with an audio/video stream" (See Fig. 12). The system "receives an audio/video stream" (See Fig. 12, 127; column 21 lines 46-58) and receives "a data transfer" (See Fig. 12, 125; column 21 lines 46-58), where the "data transfer" includes a "descriptor of when the data transfer may be combined with the audio/video stream" (See column 19 lines 40-55, time stamps inserted into each stream). The system then reads the time stamps from both the video and annotation streams or "obtaining time information from the audio/video stream" and "combining the data transfer and the audio/video stream when the time information is in substantial agreement with the descriptor" (e.g. when the time stamps are equal to each other) (See Fig. 12; column 19 lines 40-55 and column 22 lines 7-42).

Regarding claim 2, the system receives "data transfer on a first channel or network" (See Fig. 12, 125 via modem; column 21 lines 45-58) and receives "audio/video stream on a second channel or network" (See Fig. 12, 127 via cable; column 21 lines 45-58).

Regarding claim 3, the system also "checks the value of a time stamp in MPEG data" (See column 19 lines 60-65).

Regarding claim 4, the system can also check time/frame markers inserted in either the vertical blanking interval or horizontal blanking interval (See column 18 lines 20-64).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan et al. (US006493872B1) in view of Del Sesto et al. (US006530084B1).

Regarding claim 5, Rangan et al. (Rangan) discloses a method for "synchronized utilization of a data transfer with an audio/video stream" (See Fig. 12, 127; column 21 lines 46-58). The system receives "information specifying a first time value when a data transfer may be combined with an audio/video stream" (See column 19 lines 40-55, time stamps inserted into each stream). The system then monitors the audio/video stream for the corresponding time stamp (See Fig. 12; column 19 lines 40-55 and column 22 lines 7-42). Inherently the system "requests the data transfer" in order to successfully combine the video stream with the corresponding annotation stream (See column 21 line 18 – column 22 line 42), where the system receives the data transfer through the modem connection (See Fig. 12, 127; column 21 lines 45-58). The system "combines data from the data transfer with data from the audio/video stream associated with the

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first time value (e.g. when the time stamps are equal to each other) to produce a modified audio/video stream" (See Fig. 12; column 19 lines 40-55 and column 22 lines 7-42). However, Rangan does not disclose "monitoring the audio/video stream for a second time value prior to the first time value by a predetermined amount".

Del Sesto et al. (Del Sesto) discloses a system for controlling interactive application execution along with television content. Del Sesto discloses that the interactive applications include definitions that define certain time periods. The receiver monitors the television content and executes the interactive applications based on the time periods that correspond to the television content. There are three defined time periods the attract window or "second time value", start window, and run window or "first time value". The attract window is prior to the run window by "a predetermined amount" (See Fig. 5; column 9 line 31 – column 11 line 21). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the annotation streams and data capture and synchronization system disclosed by Rangan to include definitions for three defined time periods and for the data capture and synchronization system to monitor the video stream for the three defined time periods or "monitoring the audio/video stream for a second time value prior to the first time value by a predetermined amount", as taught by Del Sesto, in order to provide a more efficient means of executing supplemental/interactive data along with television content by providing more synchronization parameters thereby ensuring that the supplemental/interactive data is synchronized more precisely with the television content.

Regarding claim 7, Rangan in view of Del Sesto also monitors the audio/video stream for the start window or “third time value”, wherein the “third time value is after the second time value and prior to the first time value by a specified amount” (See Del Sesto Fig. 5).

Regarding claim 8, the system “processes data from said data transfer” (See Rangan Fig. 12; column 21 lines 45-58).

Claims 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rangan et al. (US006493872B1) in view of Del Sesto et al. (US006530084B1) as applied to claims 5, 7, and 8 above, and further in view of Ozaki et al. (US006487543B1).

Regarding claim 6, Rangan in view of Del Sesto does not disclose “checking if a network or channel connection has been established; and if a network or channel connection has not been established, establishing a network or channel connection”.

Ozaki et al. (Ozaki) discloses a terminal device that acquires data from various networks (See Fig. 1). Ozaki discloses that the terminal device is able to check whether the communications line with the server is connected or not. If the connection doesn't exist, the system establishes a connection with the server in order to acquire the data (See Fig. 17; column 15 lines 1-35). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the data capture and synchronization system disclosed by Rangan in view of Del Sesto to “check if a network or channel connection has been established; and if a network or channel

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connection has not been established, establishing a network or channel connection", as taught by Ozaki, in order to ensure that the data is successfully delivered to the receiver by establishing a connection with the server.

Regarding claim 9, when the system is acquiring or "requesting" data the system provides "information identifying a user" (See Ozaki column 15 lines 17-50).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please take note of Watts et al. (US006324694B1) for their similar method of synchronizing data transfer with an audio/video stream.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G. Ustaris whose telephone number is 571-272-7383. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JGU

October 3, 2005



VIVEK SRIVASTAVA  
PRIMARY EXAMINER